

KEVIN MCDOWELL
Claimant
VS.
FRITO-LAY, INC.
Respondent
AND
SELF INSURED
Insurance Carrier

- (1) Whether the employee suffered an accidental injury;
- (2) Whether the injury arose out of and in the course of the employee's employment;
- (3) Whether notice is given or claim timely made;
- (4) Whether certain defenses apply.

In the instant case the Administrative Law Judge denied claimant's request for medical treatment. The Order does not specify the reason behind this denial. There is evidence in the file to indicate the denial could stem from the Judge's finding the claimant's accidental injury did not arise out of and in the course of the claimant's employment. There is also information in the file to indicate the Judge's denial could stem from a finding not contained in the jurisdictional items listed in K.S.A. 44-534a.

The Appeals Board is unable to ascertain from the record the basis for the denial of benefits in this matter. As such the Appeals Board must remand this matter back to the Administrative Law Judge for further findings, specifically the basis for the denial of benefits, in order for the Appeals Board to make a decision regarding its jurisdictional basis for hearing this appeal.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that this matter be remanded back to Administrative Law Judge James R. Ward for further findings consistent with this decision. The Appeals Board does not retain jurisdiction over this proceeding. Should either party be aggrieved by any amended order rendered by the Administrative Law Judge in this matter, the appropriate procedure for filing a new application for review by the Appeals Board must be filed within the statutorily set guidelines.

IT IS SO ORDERED.

Dated this ____ day of March, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Roger D. Fincher, Topeka, KS
Matthew J. Stretz, Kansas City, MO
James R. Ward, Administrative Law Judge
George Gomez, Director